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UNITED STATES PATENT AND TRADEMARK OFFICE

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09/910,970	07/20/2001	David H. Hanes	10012397-1	2563

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/910,970
Filing Date: July 20, 2001
Appellant(s): HANES, DAVID H.

MAILED

SEP 1 4 2006

Technology Center 2600

James L. Baudino
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 7, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is incorrect. A

correct statement of the status of the claims is as follows:

Claim 36-40 been canceled.

(4)   Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Issues

The appellant's statement of the issues in the brief is correct.

(7)   Grouping of Claims

Appellant's brief includes a statement that claims in group 1, 2, 3, and 4 stand or

fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

Examiner agrees with grouping of claims.

(8)   Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is

incorrect because claims 36-40 have been cancelled.

(9)   Prior Art of Record

5,812,732	**Dettmer et al**	**09-1998**
5,343,251	**Nafeh**	**08-1994**

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1-7, 9-13, 15-19, 22-29, 31-35 are rejected under 35 U.S.C.102(b) as being anticipated by Dettmer et al (US 5,812,732). Claims 8, 14, 20, and 30 are rejected under 35 U.S.C.103 (a) as being unpatentable over Dettmer et al (US 5,812,732) in view of Nafeh (US 5,343,251). This rejection is set forth in a prior Office Action, mailed on February 25, 2004.

(11) *Response to Argument*

On Pages 5-7 of the Appeal Brief appellant argues that the Examiner has failed to point out any teaching, suggestion or motivation in Dettmer et al (US 5,812,732) which "analyzes a plurality of video frames, the plurality of video frames comprising recorded data content and unrecorded data content" as disclosed in Claims 1, 9, and 15. The Examiner notes that Dettmer et al discloses a system which video frames are analyzed to determine undesired programs (commercials) and desired programs. As seen in Figure 5b and described in Column 8 Lines 38-51 the system analyzes the data content into undesired/commercial (step 518) or desired program (step 521). Furthermore, the desired program is recorded on the program device (523) and the undesired/commercial program becomes unrecorded by being sent to the commercial device (520). Thereby making the undesired programs (commercials) the unrecorded content and the desired programs the recorded data content. Furthermore, it is further stated in the applicant's specification on page 2 lines 8-10 "The plurality of video frames

comprise recorded video data and undesired data". Therefore, it is seen that the

Dettmer et al reference meets the limitations of recorded and unrecorded content.

On Pages 7-9 of the Appeal Brief appellant argues that the Examiner has failed

to point out any teaching, suggestion or motivation in Dettmer et al (US 5,812,732)

which has "border detection module; and logic residing on the module, the logic adapted

to compare at least two video frames of the video data, the logic adapted to identify at

least one of the two video frames as a border between unrecorded data content of the

video data and recorded data content of the video data if pixel values of at least one of

the two video frames corresponds substantially to a particular color" as disclosed in

Claims 23 and 29. The examiner notes the border detection module (Figure 1 element

101) detecting the border of undesired (commercial) programs and sending desired

material to the recording unit as seen in Figure 2 and further described in Column 5

Lines 30-60. It is further stated in Column 12 Lines 38-44 distinguishes undesired and

desired programs by determining color variances between images using pixel values as

stated in Column 3 Lines 7-14. Therefore, it is seen that Dettmer et al reference meets

the limitations of having a border detection module, which detects undesired and

desired materials based on pixel values based on at least one of the two video frames

of the data segment.

On Pages 10-11 of the Appeal Brief appellant argues that the Examiner has

failed to point out any teaching, suggestion, or motivation in Dettmer et al (US

5,812,732) in view of Nafeh (US 5,343,251) for "determining from the motion vectors the

at least one frame of unrecorded data content" and "analyzing motion compensation

vectors to determine the amount of motion" as disclosed in Claims 8, 14, 20, and 30.

Dettmer et al discloses a histogram of the brightness distribution of an image that is

calculated from the use of vectors; however, does not disclose the vectors to be motion

vectors. Nafeh discloses the use of motion vectors through the analyzing of vectors

(Column 4 Lines 45-48 and Column 5 Lines 6-7) that identify vectors and change in

vectors through detectors and amplifiers that show changes and classify by indicator

number in the range of +1 and −1. It is determined from the vectors what data content

is undesired as described in Column 5 Lines 35-38 and Column 6 Lines 25-26 which

describes the classification of the video stream and vectors for determining desired and

undesired segments. Thereby, analyzing the motion compensation of the vectors to

determine the motion of each segment. Therefore, it is seen that Dettmer et al in view

of Nafeh meets the limitation of using motion vectors in determining undesired and

desired data content.

For the above reasons, it is believed that the rejections should be sustained.
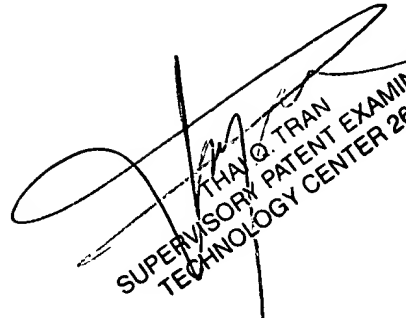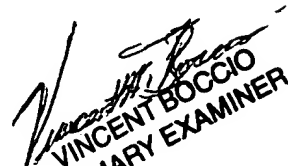
Respectfully submitted,

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September 13, 2006

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